

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA,

Plaintiff,

Civil Action No. CV-75-S-666-S

v.

JEFFERSON COUNTY, *et al.*,

Defendants.

JOHN W. MARTIN, *et al.*,

Plaintiffs,

Civil Action No. CV-74-S-17-S

v.

CITY OF BIRMINGHAM, *et al.*,

Defendants.

ENSLEY BRANCH OF THE N.A.A.C.P.,
et al.,

Plaintiffs,

Civil Action No. CV-74-S-12-S

v.

GEORGE SEIBELS, *et al.*,

Defendants.

TEMPORARY ORDER

Pending a final decision, order and judgment on the motion of the Martin plaintiffs and Bryant intervenors (“the Martin/Bryant Parties”) to hold the defendant Jefferson County in contempt, it is hereby ORDERED:

1. Jefferson County will not engage in any recall, hiring or promotion until this Court enters an Interim Order, unless, as to any specific proposed recall, hire or promotion, Jefferson County, the Martin/Bryant Parties and the United States all agree in writing that such

recall, hire or promotion may occur, or this Court specifically approves such recall, hire or promotion.

2. Jefferson County has stated that it expects to hire or promote 112 persons in 58 job classifications within the next six months, attached hereto as Exhibit A.

3. For the merit system classifications, the Personnel Board of Jefferson County has provided the racial and gender composition and ranking of the register, certification list and layoff list to the extent they exist. For each of the identified merit classifications, the Personnel Board will also provide to the parties and Special Master the nature of the selection device used by the Board (e.g., written test, work sample, minimum qualification screen, etc.). The County will promptly request that the Personnel Board create a register of eligibles for any anticipated hire into a classification that does not currently have a register.

4. Within the next six months, the County may find it necessary to hire persons in 5 non-merit system (exempt executive) classifications: (1) Chairperson – Board of Equalization; (2) Deputy Director of Roads and Transportation; (3) Director, Jefferson Health and Rehabilitation Center; (4) Director of Finance; and (5) Director of Roads and Transportation. The County also may need to hire an Administrator, Cooper Green Outpatient Services, and is in discussions with the Jefferson County Personnel Board whether this position is a non-merit system (exempt executive) classification.

5. Within ten (10) business days of receiving the above information from the Personnel Board of Jefferson County or by February 28, 2013, the Martin/Bryant Parties and the United States shall advise Jefferson County of the interim selection procedure they propose for each job classification for which there is an active register and certification list.

6. Within seven (7) business days of receiving the proposed interim selection procedures identified by the Martin/Bryant Parties and the United States, for each job classification, Jefferson County will either state its agreement or specify a different procedure it prefers to use, and state the reasons for its preference.

7. For any job classification as to which the parties do not agree on an interim selection method, the parties will submit that disagreement to the Court. The burden shall be on the County to prove that the method it requests is preferable.

8. The Court will thereafter issue an Interim Order, to be effective until the Court renders a final decision on the contempt motion, incorporating the procedures as to which all parties have agreed.

9. Should any essential recall, hiring or promotional needs other than those identified by the County arise during the pendency of the Interim Order (i.e., recall, hiring or promotion needs above the numbers provided by the County or for job classifications not identified by the County), Jefferson County will advise the parties, the Personnel Board and Special Master of such need(s), including the justification for the need and proposed method of hiring or promotion. The Personnel Board will promptly update the information identified in paragraph 3 for the specified hire or promotion if the requested hire involves a merit system classification or else notify the parties that the information previously provided is still accurate. In the event of a request for an essential recall, hire or promotion, the Martin-Bryant Parties and the United States will state their agreement or specify either the reasons why the recall, hire or promotion should not occur, or a different procedure they prefer to use for the essential recall, hire or promotion, and state the reasons for their preference. The Martin-Bryant Parties and the United States will respond within seven (7) business days after the Personnel Board either (a)

confirms that the information provided to the parties referenced in paragraph 3 herein is current, or (b) provides such current information to the parties for any merit system classification, including an active register and the nature of the selection device. The Martin-Bryant Parties and the United States will respond within fourteen (14) business days after the County's request for an essential hire in a non-merit system classification.

10. The parties will then submit a joint request to the Court if they agree that the emergency request should go forward and agree to a selection procedure for that vacancy. In the absence of agreement by the parties, the County may move for relief ten (10) business days after providing the Martin-Bryant Parties and United States notice of the anticipated essential recall, hire or promotion for non-merit system classifications or after the Personnel Board's notice of confirmation or supplemental information for merit system classifications; the burden to demonstrate that the need is essential and that the selection method is appropriate shall rest with the County.

DONE and ORDERED this 13th day of February, 2013

A handwritten signature in black ink, appearing to read "Lynwood Smith". The signature is written in a cursive, flowing style. The first name "Lynwood" is more prominent, with a large initial "L". The last name "Smith" is written in a similar cursive style. The signature is positioned above a horizontal line.

United States District Judge